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5 Attorney for Debtor in Possession

6 **UNITED STATES BANKRUPTCY COURT**

7 **DISTRICT OF NEVADA**

8 IN RE: CASE NO. 14-51643-BTB

9 JOHN DAVIS TRUCKING COMPANY, CHAPTER 11  
INC.,

10 Debtor in Possession.

11 **DEBTOR'S REPLIES TO  
OPPOSITIONS FILED BY  
CREDITORS' COMMITTEE AND  
AMTRAK TO MOTION FOR ORDER  
AUTHORIZING SECOND SALE OF  
PERSONAL PROPERTY AND  
EMPLOYING RITCHIE BROS.;  
PAYMENT OF COMMISSION**

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15 **Hearing Date: May 29, 2015**  
**Hearing Time: 10:00 a.m.**

16 John Davis Trucking Company, Inc. (JDT") replies to the Oppositions filed by the  
17 Creditors' Committee and Amtrak, **DE 137** and **DE 138** to its Motion For Order Authorizing  
18 Second Sale Of Personal Property and Employing Ritchie Bros. Auctioneers and Payment of  
19 Commission ("Sale Motion"). **DE 116.** The is Reply is supported by the separately filed  
20 Declaration of Jeffrey Hartman.

21 **LIMITED COMMITTEE OPPOSITION**

22 The Debtor intends to segregate the net sale proceeds of the second auction with the  
23 proceeds from the sale of the first auction. JDT also takes this opportunity to clarify the  
24 record as set forth in the Hartman Declaration. The first auction was held on March 17,  
25 2015. On April 13, 2015, attorney Hartman received a printout from Ritchie Bros. showing  
26 the results of the auction. That printout indicated proceeds of \$533,500 "total for this  
27 Owner". That same date, Hartman sent an e-mail to Ritchie Bros. inquiring whether this was  
28 the "net to John Davis Trucking?". Ritchie Bros. responded by e-mail that "yes" that was

1 the net. On April 14, 2015 Hartman filed a Notice Of Auction Results attached to which  
 2 was the printout received from Ritchie Bros. on April 13, 2015. **DE 103**. Subsequently,  
 3 Hartman received an Auction Settlement Statement from Ritchie Bros. showing the  
 4 Disbursement to JDT totaling \$480,581.75. This record showed gross sale proceeds of  
 5 \$533,500 less the 9.5% commission of \$50,682.50 to Ritchie Bros. The funds were wired  
 6 into the JDT operating account on April 21, 2015. The deposit is shown on the April 2015  
 7 monthly operating report. **DE 139**. Hartman Declaration.

8 The separate Wells Fargo account was opened May 11, 2015 and the sale proceeds  
 9 were deposited. These funds are held by JDT in a segregated account at Wells Fargo Bank,  
 10 account # 4092. As to the remainder of the Creditors' Committee objection, JDT has not yet  
 11 made a final determination about whether it will continue to operate or propose an orderly  
 12 liquidation of assets under the supervision of the Court. If JDT can operate profitably and it  
 13 makes sense to do so, it may proceed in that manner.

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### 15 AMTRAK OPPOSITION

16 Much of Amtrak's Opposition does not directly address the Sale Motion which  
 17 contemplates a sale of 7 pieces of equipment. There are three trucks, including one dump  
 18 truck and one lube/oil truck, to be sold and four trailers. At the Petition Date, Schedule B-29  
 19 identified approximately 183 items of equipment owned by JDT. In the first auction, 12  
 20 pieces of equipment were sold. In the second auction, 7 pieces are to be sold. These are  
 21 items of equipment JDT has determined are not necessary to continued operations and they  
 22 do not increase in value with the passage of time.

23 It is simply wrong for Amtrak to assert that JDT has not been forthcoming with  
 24 information. JDT has timely filed each of its monthly operating reports showing the result  
 25 of operations. On February 11, 2015, pursuant to a subpoena, JDT produced 4,675 pages of  
 26 documents to the Committee. Within the past week, the Committee has supplemented its  
 27 request for additional documentation which will be responded to in due course.

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1                           **CONCLUSION**

2                           For the foregoing reasons, JDT requests the Court overrule the Oppositions and grant  
3 the Sale Motion.

4                           Dated: May 21, 2015.

5                           **HARTMAN & HARTMAN**

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7                           /S/ Jeffrey L. Hartman  
8                           Jeffrey L. Hartman, Esq.  
9                           Attorney for Debtor in Possession

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